

ORDER NO. 2669

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Tony Hammond, Vice Chairman;
Mark Acton;
Ruth Y. Goldway; and
Nanci E. Langley

Market Dominant Product Prices
Inbound Market Dominant Multi-Service Agreements
with Foreign Postal Operators 1

Docket No. R2015-6

China Post Group—United States Postal Service
Multi-Product Bilateral Agreement (MC2010-35)
Negotiated Service Agreement

NOTICE AND ORDER CONCERNING TYPE 2 RATE ADJUSTMENT AND
FUNCTIONALLY EQUIVALENT AGREEMENT

(Issued August 17, 2015)

I. INTRODUCTION

On August 14, 2015, the Postal Service filed a notice, pursuant to 39 CFR 3010.40 *et seq.*, announcing a Type 2 rate adjustment to improve default rates established under the Universal Postal Union Acts.¹ The Notice concerns the inbound

¹ Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, August 14, 2015, at 1 (Notice).

portion of a Multi-Product Bilateral Agreement with China Post Group (Agreement).² In accordance with Order No. 2148,³ the Postal Service claims the Agreement is functionally equivalent to the agreement with China Post filed in Docket No. R2010-6 (China Post 2010 Agreement), with inbound small packets with delivery scanning pricing similar to that in the China Post 2010, China Post 2011, China Post 2013, and China Post 2014 agreements. *Id.* at 1, 4. The Postal Service seeks to include the Agreement within the Inbound Market-Dominant Multi-Service Agreements with Foreign Postal Operators 1 product, in the market dominant product list of the Mail Classification Schedule. *Id.* at 1.

II. CONTENTS OF FILING

The Postal Service's filing consists of the Notice, two attachments, and redacted and unredacted versions of an Excel file with supporting financial workpapers. *Id.* at 2. Attachment 1 is an application for non-public treatment of material filed under seal with the Commission. *Id.* Attachment 2 is a redacted copy of the Agreement. *Id.* The Postal Service includes a redacted version of the financial workpapers with its filing as a separate public Excel file. *Id.*

The Postal Service states that the intended effective date of the Agreement's inbound market dominant rates is October 1, 2015;⁴ asserts that it is providing at least the 45 days advance notice required under 39 CFR 3010.41; and identifies the parties to the Agreement as the United States Postal Service and China Post Group, the postal operator for China. *Id.* at 3.

Reporting requirements. 39 CFR 3010.43 requires the Postal Service to submit a detailed data collection plan. In lieu of a special data collection plan for the

² Notice at 1. The Agreement's inbound competitive rates will be filed with the Commission in a separate docket. *Id.* at 3.

³ See Docket No. R2013-9, Order Granting, in Part, Motion for Partial Reconsideration of Order No. 1864 and Modifying, in Part, Order No. 1864, August 11, 2014 (Order No. 2148).

⁴ Although the copy of the Agreement filed under seal has yet to be signed by both parties, the Postal Service anticipates updating this docket with a signed version, soon. *Id.* at 3 n.3.

Agreement, the Postal Service proposes to report information on the Agreement through the Annual Compliance Report. *Id.* at 6. The Postal Service also invokes, with respect to service performance measurement reporting under 39 CFR 3055.3(a)(3), the standing exception in Order No. 996 for all agreements filed in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product grouping.⁵

Consistency with applicable statutory criteria. The Postal Service observes that Commission review of a negotiated service agreement addresses three statutory criteria under 39 U.S.C. 3622(c)(10), whether the agreement: (1) improves the Postal Service's net financial position or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. Notice at 7. The Postal Service asserts that it addresses the first two criteria in its Notice and that the third is inapplicable, as there are no entities similarly situated to China Post Group in terms of their ability to tender small packet with delivery scanning flows from China or serve as a designated operator for letter post originating in China. *Id.*

Functional equivalence. The Postal Service addresses reasons why it considers the Agreement functionally equivalent to the China Post 2010 Agreement filed in Docket No. R2010-6.⁶ The Postal Service asserts that it does not consider that the specified differences detract from the conclusion that the Agreement is functionally equivalent to the baseline China Post 2010 Agreement. Notice at 11.

III. COMMISSION ACTION

The Commission, in conformance with rule 3010.44, establishes Docket No. R2015-6 to consider issues raised in the Notice. The Commission invites

⁵ *Id.* at 7, citing Docket No. R2012-2, Order Concerning an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, November 23, 2011, at 7 (Order No. 996).

⁶ *Id.* at 8-9; *see also* Docket Nos. MC2010-35, R2010-5, and R2010-6, Order No. 549, Order Adding Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Approving Included Agreements, September 30, 2010.

comments from interested persons on whether the Agreement is consistent with 39 U.S.C. 3622 and the requirements of 39 CFR part 3010. Comments are due no later than September 17, 2015. The public portions of this filing can be accessed via the Commission's website (<http://www.prc.gov>). Information on how to obtain access to non-public material appears in 39 CFR part 3007.

The Commission appoints James F. Callow to represent the interests of the general public (Public Representative) in this docket.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. R2015-6 for consideration of matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons in this proceeding are due no later than September 17, 2015.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary